(1)S.B.Criminal Revision No. 400/2006
(Kanwar Lal Vs. State of Rajasthan and Anr.)
(2)S.B.Criminal Revision No. 401/2006
(Kanwar Lal Vs. State of Rajasthan and Ors.)

Date of order : 24.05.2006

HON'BLE MR.H.R.PANWAR,J.

Mr. M.S.Purohit for the petitioner.
Mr. J.P.S.Choudhary, Public Prosecutor.

By these two revision petitions under Section 397/401 Cr.P.C., the petitioner has challenged the judgment and order dated 12.4.2006 passed by Sessions Judge, Bikaner (for short 'the revisional court' hereinafter) in Criminal Revisions No.24 & 14 of 2006, whereby the revisional court set aside the order dated 26.10.2005 passed by Additional Chief Judicial Magistrate, No.3, Bikaner (for short 'the trial court' hereinafter), whereby the trial court took the cognizance of the offence under Section 406 IPC against the contesting non-petitioners. Since, both the revision petitions arise out of common judgment and order between the same parties, therefore, they are heard together and decided by this common order.

It is contended by the learned counsel for the petitioner that though after investigation police did not find the case and filed a negative final report, but the trial court took the cognizance of the offence and the revisional court fell in error in

setting aside the order of cognizance.

I have carefully gone through the judgment and order impugned. From the perusal of the judgment and order impugned, it appears that there is absolutely no evidence of entrustment of a sum of Rs. 2,50,000/-. The fixed deposit receipt for a sum of Rs. 2,50,000/- is said to have been deposited in the account of Bathiya Panchayat. It also appears that apart from Mohanlal, other members of Bathiya Panchayat were authorised to sell the land of Bathiya Panchayat. At any rate, the sale proceedings have been deposited with the Panchayat and therefore, the revisional court held that there is no evidence of entrusement of the property as also the criminal breach of trust. Since from the material available on record, there being no evidence to show any entrustment of any property to the accused non-petitioners and that there was no ground to presume that contesting non-petitioners committed the offence of criminal breach, in my view, the revisional court was justified in setting aside the order taking cognizance. In the circumstances, therefore, I do not find any error, illegality or perversity in the judgment and order impugned.

Both the revision petitions are accordingly dismissed.

(H.R.PANWAR), J.

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